

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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JOSHUA WALTER,

Plaintiff,

Case No. 21-cv-0539-bhl

v.

KERRY INC, et al.,

Defendants.

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**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS ACTION  
SETTLEMENT**

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Based on the parties' submissions in support of their Joint Motion for Preliminary Approval of Class Action Settlement, as well as the record as a whole,

**IT IS HEREBY ORDERED:**

1. The Joint Motion for Preliminary Approval of Class Action Settlement, ECF No. 32, is **GRANTED**. The Court finds that the terms negotiated by the parties and described in the Settlement Agreement and Release (Settlement Agreement) appear to be a fair and reasonable resolution of a *bona fide* dispute between Kerry, Inc., the Board of Directors of Kerry, Inc., and the Benefits Committee of Kerry, Inc. (Defendants) and all affected employees of Defendants during the relevant timeframes.
2. The proposed settlement class is certified for settlement purposes pursuant to Fed. R. Civ. P. 23. The Court finds that this class meets the requirements of Fed. R. Civ. P. 23(a) and Fed. R. Civ. P. 23(b)(1). The class is defined as follows:

All participants and beneficiaries of the Kerry, Inc. Savings Plan, at any time during the Class Period, including any beneficiary of a deceased person who was a participant in the Plan at any time during the Class Period, and any Alternate Payees, in the case of a person subject to a qualified domestic relations order who was a participant in the Plan at any time during the Class Period.
3. Joshua Walter shall serve as the representative for the certified Fed. R. Civ. P. 23 class.

4. The law firm of Walcheske & Luzi, LLC is appointed as class counsel for the certified Fed. R. Civ. P. 23 class.
5. Analytics Consulting, LLC (Analytics) shall be the Settlement Administrator responsible for carrying out the responsibilities set forth in the Settlement Agreement.
  - a. The Settlement Administrator shall be bound by the Confidentiality Order and any further nondisclosure or security protocol jointly required by the settling parties, set forth in writing to the Settlement Administrator.
  - b. The Settlement Administrator shall use the data provided by Defendants and the Kerry Inc. Savings Plan's (the Plan) recordkeeper solely for the purpose of meeting its obligations as Settlement Administrator, and for no other purpose.
  - c. The settling parties shall have the right to approve a written protocol to be provided by the Settlement Administrator concerning how the Settlement Administrator will maintain, store, and dispose of information provided to it in order to ensure that reasonable and necessary precautions are taken to safeguard the privacy and security of such information.
6. The Court approves the Settlement Notices attached as Exhibits B-1 and B-2 to the Settlement Agreement.
7. The Settlement Notices constitute the best notice practicable under the circumstances; provide individual notice to all class members who can be identified with reasonable effort; and constitute valid, due, and sufficient notice to class members in full compliance with the requirements of applicable law, including the Due Process Clause of the United States Constitution.
8. The Court approves the form of the Class Action Fairness Act (CAFA) notices attached as Exhibit D to the Settlement Agreement and orders that upon the mailing of the CAFA notices, Defendants shall have fulfilled their obligations under the Class Action Fairness Act, 28 U.S.C. §§1711, *et seq.*
9. The Settlement Administrator shall send by either email or first-class mail the appropriate Settlement Notice to each class member within forty-five (45) calendar days of the date of this Order, as specified in the Settlement Agreement, based on data

- provided by the Plan's recordkeeper. The Settlement Notices shall be mailed by first-class mail, postage prepaid, to the last known address of each class member provided by the Plan's recordkeeper (or its designee), unless an updated address is obtained by the Settlement Administrator through its efforts to verify the last known addresses provided by the Plan's recordkeeper (or its designee). The Settlement Administrator shall use commercially reasonable efforts to locate any class member whose Settlement Notice is returned and remail such documents one additional time.
10. Former participants of the Plan will receive their settlement payment via check pursuant to the Plan of Allocation.
  11. On or before the date that Settlement Notices are sent to the settlement class, the Settlement Administrator shall establish a Settlement Website and telephone support line as provided by the Settlement Agreement. The Settlement Administrator shall post a copy of the Settlement Notices on the Settlement Website.
  12. The Court will conduct a Fairness Hearing on **March 9, 2023, at 10 a.m. in Courtroom 320, 517 E Wisconsin Ave, Milwaukee, WI 53202** to determine whether the Settlement Agreement should be approved as fair, reasonable, and adequate; whether the Court should approve any motion for attorneys' fees and costs, administrative expenses, and class representative compensation; and whether the proposed final order approving the Settlement Agreement should be entered
  13. Any objections to any aspect of the Settlement Agreement shall be heard, and any papers submitted in support of said objections shall be considered, by the Court at the Fairness Hearing, provided that such objections and papers have been timely sent to Class Counsel and Defendants' Counsel. To be timely, the objection and any supporting documents must be sent to Class Counsel and Defendants' Counsel at least twenty-eight (28) calendar days prior to the scheduled Fairness Hearing.
  14. Any party may file a response to an objection by a class member at least fourteen (14) calendar days before the scheduled Fairness Hearing, and Plaintiff shall file his Final Approval Motion at least fourteen (14) calendar days before the Fairness Hearing.

15. The Court may adjourn, modify, or continue the Fairness Hearing without further direct notice to the class members, other than by notice via the Court's docket or the Settlement Website.

Dated at Milwaukee, Wisconsin on October 31, 2022.

*s/ Brett H. Ludwig*

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BRETT H. LUDWIG

United States District Judge